

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**GENE WINDHAM, individually, and
as the personal representative of the
Estate of LILLIE MAE WINDHAM,
deceased,**

Plaintiff,

vs.

**HUDDLE HOUSE, INC., a foreign
corporation; HUDDLE HOUSE #389 &
482, a domestic corporation; GWYNNE
STRAUGHN, an individual; FRANCIS and
WYATT SASSER, individuals,**

Defendants.

CASE NO. 2:08CV007

MOTION FOR SUBSTITUTION OF PARTIES

COMES NOW the Plaintiff and moves this Court to allow the substitution of parties in this case for the following reasons:

1. The original plaintiff to this case, Lillie Mae Windham, tripped and fell at The Huddle House in Andalusia, Covington County, Alabama.
2. Subsequently, Mrs. Windham and her husband filed suit in state court against several defendants under various theories.
3. Mrs. Windham died on August 14, 2007. The Defendants filed a Suggestion of Death in the Circuit Court of Covington County, Alabama on August 20, 2007.
4. Ala. R. Civ. Pro., Rule 25(a), which governed the action when the Suggestion was filed, provides that once a Suggestion of Death is filed in Court, a party may move to substitute parties within 6 months of the filing of the suggestion, making the deadline for doing so February

20, 2008.

5. The Plaintiff, Gene Windham, received Letters of Administration on December 21, 2007 which allowed him to file suit in the name of his wife's Estate. See Letters attached hereto as Exhibit "A."

6. The Defendants removed this case on January 2, 2008.

7. The Plaintiff Gene Windham, being the duly appointed personal representative of the Estate of his wife has the authority to maintain the action on behalf of her Estate, to pursue his own claims, and the substitution is being sought within the time allowed by law. See Exhibit "A" attached hereto; Ala. Code § 43-2-843 (1975).

WHEREFORE, for the above reasons, the Plaintiff Gene Windham moves this Court to allow him to substitute "Gene Windham, individually and as the Personal Representative of the Estate of Lillie Mae Windham" for the original plaintiff, Lillie Mae Windham.

/s/Thomas B. Albritton
Thomas B. Albritton (ALB009)
Attorney for Plaintiffs

OF COUNSEL:

ALBRITTONS, CLIFTON,
ALVERSON, MOODY & BOWDEN, P.C.
109 Opp Ave.
Andalusia, AL 36420
(334)-222-3177
(334)-222-2696

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing upon all counsel of record in this cause by electronic service if registered, and if not, by regular U.S. Mail, postage prepaid and addressed as follows, on this, the 23rd day of January, 2008:

Mr. John M. Peek
416 South Three Notch Street
Andalusia, AL 36420

/s/Thomas B. Albritton
Of Counsel

IN THE PROBATE COURT OF COVINGTON COUNTY, ALABAMA


IN RE: ESTATE OF LILLIE MAE)
WINDHAM, DECEASED) CASE NO. PC-2007- 321

LETTERS OF ADMINISTRATION

TO WHOM IT MAY CONCERN:

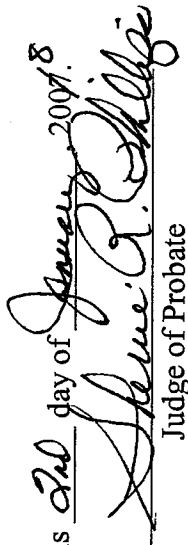
Letters of Administration on the above-named deceased are hereby granted to Gene Windham who has duly qualified as such Personal Representative, and is authorized to administer such estate. Subject to the priorities stated in Section 43-8-76, Code of Alabama 1975, as amended, the said Personal Representative, acting prudently for the benefit of interested persons, has all the general powers, without limitation, authorized in transactions under Section 43-2-843, Code of Alabama 1975, as amended, and in addition the power to dispose of real and personal property of the estate for cash at public or private sale as enumerated in Section 43-2-844, Code of Alabama 1975, as Amended.

WITNESS my hand this 21 day of December, 2007.


Judge of Probate

STATE OF ALABAMA)
COVINGTON COUNTY)

I, Sherrie Phillips, Judge of Probate in and for said County and State, hereby certify that the foregoing is a true, correct and full copy of the Letters of Administration issued in the above-styled cause as appears of record in said Court. I further certify that said Letters are still in full force and effect.

WITNESS my hand and seal of said Court this 2nd day of January, 2008.

Judge of Probate